

**ASSEMBLY BILL**

**No. 1028**

**Introduced by Assembly Member Jerome Horton**

February 22, 2005

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An act to add Section 23649.1 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1028, as introduced, Jerome Horton. Manufacturers' investment credit: butcher activity.

The Corporation Tax Law authorizes various credits against the taxes imposed by that law.

This bill would allow a credit for taxable years beginning on or after January 1, 2005, in an amount equal to 6% of the amount paid or incurred for qualified property, as defined, to be used in a qualified activity, as defined. In general, the credit would be for property used for manufacturing and processing meat or poultry, as provided.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 23649.1 is added to the Revenue and
- 2 Taxation Code, to read:
- 3 23649.1. (a) For taxable years beginning on or after January
- 4 1, 2005, there shall be allowed as a credit against the "tax" (as
- 5 defined in Section 23036) for the taxable year an amount equal to
- 6 6 percent of the amount paid or incurred during the taxable year

1 by the taxpayer in connection with the taxpayer's purchase of  
2 qualified property to be used in a qualified activity.

3 (b) For purposes of this section:

4 (1) "Taxpayer" means a person or entity primarily engaged in  
5 a trade or business described in Codes 4451 to 445310, inclusive,  
6 of the North American Industry Classification System (NAICS)  
7 published by the United States Office of Management and  
8 Budget, 2002 edition, whose labor force engaging in the  
9 manufacturing and processing of cooked and uncooked meat or  
10 poultry for human consumption is part of an organized labor  
11 union.

12 (2) "Qualified property" means tangible personal property  
13 defined in Section 1245(a) of the Internal Revenue Code for use  
14 by a qualified taxpayer at establishments primarily engaged in  
15 the lines of business described in Codes 4451 to 445310,  
16 inclusive, of the NAICS, 2002 edition, engaging in a qualified  
17 activity.

18 (3) "Qualified activity" means the manufacturing and  
19 processing of cooked and uncooked meat or poultry for human  
20 consumption, beginning at the point at which any raw materials  
21 are received by the qualified taxpayer and introduced into the  
22 process, and ending at the point at which the manufacturing and  
23 processing, has altered the meat or poultry to its completed form,  
24 including boning, cutting, recutting, cooking, packaging, and  
25 repackaging, if required. Raw materials shall be considered to  
26 have been introduced into the process when the raw materials are  
27 stored on the same premises where the qualified taxpayer's  
28 manufacturing or processing activity is conducted. Raw materials  
29 that are stored on premises other than where the qualified  
30 taxpayer's manufacturing or processing activity is conducted,  
31 shall not be considered to have been introduced into the  
32 manufacturing or processing process.

33 (4) "Primarily" means engaged 50 percent or more of the time  
34 measured by hours.

35 (c) In the case where the credit otherwise allowed under this  
36 section exceeds the "tax" for the taxable year, that portion of the  
37 credit that exceeds the "tax" may be carried over and added to  
38 the credit, if any, in succeeding taxable years, until the credit is  
39 exhausted. The credit shall be applied first to the earliest taxable  
40 years possible.

1 (d) The Franchise Tax Board may prescribe rules and  
2 regulations to carry out the purposes of this section, including  
3 any rules and regulations necessary to prevent the avoidance of  
4 the effect of this section through splitups, shell corporations,  
5 partnerships, tiered ownership structures, sale-leaseback  
6 transactions, or otherwise.

7 SEC. 2. This act provides for a tax levy within the meaning of  
8 Article IV of the Constitution and shall go into immediate effect.

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